

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

CARMEN IOVINO,
Plaintiff,

V.

AM TRUST FINANCIAL SERVICES, INC.,
et al.,

Defendants.

Case No. 2:22-cv-01974-APG-NJK

Order

[Docket No. 180]

Pending before the Court is Plaintiff's motion to compel Defendants' financial information.

12 Docket No. 180. Defendants filed a response. Docket No. 184. Plaintiff filed a reply. Docket
13 No. 185. The motion is properly resolved without a hearing. *See* Local Rule 78-1.

I. BACKGROUND

15 Plaintiff was injured in a car crash while driving a company truck for his employer. Docket
16 No. 179 at 1. The driver who caused the crash is unknown, so Plaintiff sought benefits under his
17 employer's insurance policy with Defendant Security National Insurance Company ("SNIC") for
18 underinsured/uninsured motorist ("UM") coverage. *Id.* Plaintiff alleges that he sustained injuries
19 well above the policy's \$1 million limit but was paid less than half of the benefits that he claims
20 are due. *Id.* Plaintiff sues SNIC; its parent company, Defendant AmTrust Financial Services, Inc.
21 ("AFSI"); and its claim processor, Defendant AmTrust North America ("ANA").

22 On April 2, 2024, Plaintiff propounded requests for production, seeking financial
23 information and statements from each Defendant. Docket No. 180 at 12. Plaintiff submits that
24 Defendants produced Defendant SNIC's financial information, but have not produced financial
25 information for Defendant ANA, and have produced limited information for Defendant AFSI. *Id.*
26 On August 27, 2024, Plaintiff filed his original motion to compel Defendants' financial
27 information. Docket No. 142. The Court denied the motion without prejudice as the parties did

1 not engage in a robust meet and confer. Docket No. 176. Plaintiff has now filed the pending
 2 motion to compel.

3 **II. DISCOVERY STANDARDS**

4 “The discovery process in theory should be cooperative and largely unsupervised by the
 5 district court.” *Sali v. Corona Reg’l Med. Ctr.*, 884 F.3d 1218, 1219 (9th Cir. 2018). When an
 6 amicable resolution to a discovery dispute cannot be attained, however, a party seeking discovery
 7 may move the Court to issue an order compelling that discovery. Fed. R. Civ. P. 37(a). The party
 8 seeking to avoid discovery bears the burden of showing why that discovery should not be
 9 permitted. *V5 Techs. v. Switch, Ltd.*, 334 F.R.D. 306, 309 (D. Nev. 2019). While it may ultimately
 10 be the responding party’s burden of persuasion to defend against a motion to compel, the movant
 11 must still present meaningfully developed argument as to each particular discovery response in
 12 dispute. *U.S. Bank, N.A. v. N. Am. Title Ins. Co.*, 2019 WL 5788302, at *2 (D. Nev. Nov. 6, 2019).

13 The instant dispute concerns Plaintiff’s request for Defendant ANA’s and Defendant
 14 AFSI’s financial information. Plaintiff submits that “punitive damages are highly probable based
 15 on a clear and convincing standard and discovery regarding Defendants’ financial status is relevant
 16 and proportional to the needs of the case.” Docket No. 180 at 12. Defendants submit that they
 17 have produced sufficient information to establish their net worth in the form of a declaration that
 18 discloses Defendant AFSI’s total assets and liabilities from 2021-2023. Docket No. 184 at 5-6.
 19 Defendants also submit that Defendant ANA does not prepare or maintain financial statements
 20 separate from Defendant AFSI.¹ *Id.* at 2. Plaintiff submits that the declaration is not sufficient as
 21 “Plaintiff has no ability to verify or corroborate this information whatsoever” and that the “assets,
 22 liabilities, equity and net income” is not the net worth of the companies. Docket No. 180 at 20-
 23 21.

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26 ¹ Defendants submit that they “would be willing to supplement the [declaration] to provide
 27 calculations of assets, liabilities, equity, and net income for ANA for 2021-2023, but only if the
 28 Court deems it necessary.” Docket No. 184 at 7. In the event the Court determines this supplement
 necessary, Defendants ask the Court to defer the production until “after the decision on the
 summary judgment motions to see if Plaintiff’s prayer for punitive damages survives.” *Id.* at 7-8.

1 Black's Law Dictionary defines "net worth" to be "the excess of total assets over total
 2 liabilities." *Worth*, Black's Law Dictionary (12th ed. 2024); *see also Bolt v. Merrimack Pharms., Inc.*, 503 F.3d 913, 917 (9th Cir. 2007) ("the common and well-established meaning of the term
 4 "net worth" [is] the difference between total assets and total liabilities"). Defendants' declaration,
 5 from the Vice President of US GAAP Financial Reporting and Consolidation for Defendant AFSI,
 6 states the total assets and liabilities for Defendant AFSI for the last three years. *See* Docket No.
 7 180-3 at 3.

8 The Court has previously admonished Plaintiff for his failure to properly develop
 9 arguments. *See* Docket Nos. 148, 152, 154, 179. To the Court's chagrin, Plaintiff did not cure
 10 those deficiencies and once again fails to provide any legal authority or meaningfully developed
 11 argument in support of his motion.² Plaintiff asserts that "[the information in the declaration] is
 12 not the net worth of the companies" and that "Plaintiff is not obligated to rely upon [the
 13 declaration]." Docket No. 180 at 21. Such bald assertions are not persuasive. Plaintiff presents
 14 this argument in a few sentences, which does not constitute a meaningfully developed argument.
 15 *See Kor Media Grp., LLC v. Green*, 294 F.R.D. 579, 582 n.3 (D. Nev. 2013). Further, Plaintiff
 16 provides no definitions or methods of calculation for net worth, nor does he cite case law that
 17 provides backing for the notion that a declaration, submitted under penalty of perjury, is not
 18 sufficient to establish Defendants' net worth.

19 Further, Defendants request sanctions in their response. *See* Docket No. 184 at 8-11.
 20 Plaintiff fails to address this argument in his reply. *See* Docket No. 185. This failure constitutes
 21 a consent to the granting of the request. *See* LR 7-2(d). In addition, the Court finds the granting
 22 of sanctions appropriate pursuant to Fed. R. Civ. P. 37(a)(5)(B).

23 Accordingly, Plaintiff's motion to compel is **DENIED**. Docket No. 180. Defendants'
 24 request for sanctions is **GRANTED**. No later than December 9, 2024, the parties must meet and
 25 confer to determine if they can agree upon the sanction amount. If they cannot agree, Defendants

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 27 ² Plaintiff attempts to build on his argument in his reply. However, the case law cited by
 Plaintiff lists the various types of documents that can be used to ascertain a parties' financial
 condition; it does not limit the type of documents that can be used, nor does it prohibit a sworn
 declaration from being used. *See* Docket No. 185 at 3.

1 must file a motion, no later than December 12, 2024, that clearly requests specific sanctions and
2 sets forth the proper standards for the specific amount requested.

3 IT IS SO ORDERED.

4 Dated: December 3, 2024

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6 Nancy J. Koppe
7 United States Magistrate Judge

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